

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 988

Introduced by Assembly Member Brownley

February 27, 2009

An act to amend Section ~~52.5 of the Civil Code~~, *13519.14 of*, and to add Section 13835.11 to, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 988, as amended, Brownley. Human trafficking: civil actions: training of caseworkers.

Existing law establishes the offense of human trafficking. ~~Existing law authorizes a victim of human trafficking to bring a civil action for specified forms of relief. Existing law requires that any civil action filed under these provisions be stayed during the pendency of any criminal action arising out of the same occurrence.~~ *Existing law requires the Commission on Peace Officer Standards and Training to implement a course or courses of instruction for the training of law enforcement officers in California in the handling of human trafficking complaints and to develop guidelines for law enforcement response to human trafficking, as specified.*

This bill would additionally require the commission, upon the next regularly scheduled review of a training module relating to human trafficking, to create and make available training content on the U Visa, as specified.

~~This bill would require, instead, that a civil action filed under the above provisions, at the request of the prosecuting or investigating~~

~~agency, be stayed until any criminal action arising out of the same occurrence is no longer pending, or until the prosecuting or investigating agency requests that the stay be lifted, whichever occurs first.~~

Existing law requires the Director of Finance to designate an agency or agencies to establish a statewide victim assistance training program for specified purposes, including certifying training programs.

This bill would require the agency designated by the Director of Finance to certify the training program for human trafficking caseworkers to be the same agency designated by the director to certify the training program for sexual assault counselors. The bill would require that agency to complete the certification of the training program for human trafficking caseworkers on or before June 30, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 13519.14 of the Penal Code is amended*
2 *to read:*

3 13519.14. (a) (1) The commission shall implement by January
4 1, 2007, a course or courses of instruction for the training of law
5 enforcement officers in California in the handling of human
6 trafficking complaints and also shall develop guidelines for law
7 enforcement response to human trafficking. The course or courses
8 of instruction and the guidelines shall stress the dynamics and
9 manifestations of human trafficking, identifying and
10 communicating with victims, providing documentation that satisfy
11 the law enforcement agency endorsement (LEA) required by
12 federal law, collaboration with federal law enforcement officials,
13 therapeutically appropriate investigative techniques, the availability
14 of civil and immigration remedies and community resources, and
15 protection of the victim. Where appropriate, the training presenters
16 shall include human trafficking experts with experience in the
17 delivery of direct services to victims of human trafficking.
18 Completion of the course may be satisfied by telecommunication,
19 video training tape, or other instruction.

20 (2) *The commission shall, upon the next regularly scheduled*
21 *review of a training module relating to human trafficking, create*
22 *and make available training content on the U Visa as authorized*
23 *by the Victims of Trafficking and Violence Act. The training shall*

1 *include how to inform victims about the U Visa and how to apply*
2 *for a U Visa. The training regarding the U Visa shall include, but*
3 *not be limited to, an explanation that it is available to noncitizen*
4 *crime victims who have suffered substantial physical or mental*
5 *abuse from criminal activity, have information regarding criminal*
6 *activity, and assist government officials in the investigation or*
7 *prosecution of that criminal activity, if the criminal activity violated*
8 *United States law or occurred in the United States, including*
9 *Indian country and military installations, or in the territories and*
10 *possessions of the United States. The training content shall be*
11 *designed for, and made available to, peace officers employed by*
12 *law enforcement agencies that participate in, and comply with,*
13 *training standards set forth by the commission.*

14 (b) As used in this section, “law enforcement officer” means
15 any officer or employee of a local police department or sheriff’s
16 office, and any peace officer of the California Highway Patrol, as
17 defined by subdivision (a) of Section 830.2.

18 (c) The course of instruction, the learning and performance
19 objectives, the standards for the training, and the guidelines shall
20 be developed by the commission in consultation with appropriate
21 groups and individuals having an interest and expertise in the field
22 of human trafficking.

23 (d) The commission, in consultation with these groups and
24 individuals, shall review existing training programs to determine
25 in what ways human trafficking training may be included as a part
26 of ongoing programs.

27 (e) Participation in the course or courses specified in this section
28 by peace officers or the agencies employing them is voluntary.

29 ~~SECTION 1. Section 52.5 of the Civil Code is amended to~~
30 ~~read:~~

31 ~~52.5. (a) A victim of human trafficking, as defined in Section~~
32 ~~236.1 of the Penal Code, may bring a civil action for actual~~
33 ~~damages, compensatory damages, punitive damages, injunctive~~
34 ~~relief, any combination of those, or any other appropriate relief.~~
35 ~~A prevailing plaintiff may also be awarded attorney’s fees and~~
36 ~~costs.~~

37 ~~(b) In addition to the remedies specified herein, in any action~~
38 ~~under subdivision (a), the plaintiff may be awarded up to three~~
39 ~~times his or her actual damages or ten thousand dollars (\$10,000),~~
40 ~~whichever is greater. In addition, punitive damages may also be~~

1 awarded upon proof of the defendant's malice, oppression, fraud,
2 or duress in committing the act of human trafficking.

3 ~~(e) An action brought pursuant to this section shall be~~
4 ~~commenced within five years of the date on which the trafficking~~
5 ~~victim was freed from the trafficking situation, or if the victim was~~
6 ~~a minor when the act of human trafficking against the victim~~
7 ~~occurred, within eight years after the date the plaintiff attains the~~
8 ~~age of majority.~~

9 ~~(d) If a person entitled to sue is under a disability at the time~~
10 ~~the cause of action accrues, so that it is impossible or impracticable~~
11 ~~for him or her to bring an action, then the time of the disability is~~
12 ~~not part of the time limited for the commencement of the action.~~
13 ~~Disability will toll the running of the statute of limitation for this~~
14 ~~action.~~

15 ~~(1) Disability includes being a minor, insanity, imprisonment,~~
16 ~~or other incapacity or incompetence.~~

17 ~~(2) The statute of limitations shall not run against an incompetent~~
18 ~~or minor plaintiff simply because a guardian ad litem has been~~
19 ~~appointed. A guardian ad litem's failure to bring a plaintiff's action~~
20 ~~within the applicable limitation period will not prejudice the~~
21 ~~plaintiff's right to do so after his or her disability ceases.~~

22 ~~(3) A defendant is estopped to assert a defense of the statute of~~
23 ~~limitations when the expiration of the statute is due to conduct by~~
24 ~~the defendant inducing the plaintiff to delay the filing of the action,~~
25 ~~or due to threats made by the defendant causing duress upon the~~
26 ~~plaintiff.~~

27 ~~(4) The suspension of the statute of limitations due to disability,~~
28 ~~lack of knowledge, or estoppel applies to all other related claims~~
29 ~~arising out of the trafficking situation.~~

30 ~~(5) The running of the statute of limitations is postponed during~~
31 ~~the pendency of any criminal proceedings against the victim.~~

32 ~~(e) The running of the statute of limitations may be suspended~~
33 ~~where a person entitled to sue could not have reasonably discovered~~
34 ~~the cause of action due to circumstances resulting from the~~
35 ~~trafficking situation, such as psychological trauma, cultural and~~
36 ~~linguistic isolation, and the inability to access services.~~

37 ~~(f) A prevailing plaintiff may also be awarded reasonable~~
38 ~~attorney's fees and litigation costs including, but not limited to,~~
39 ~~expert witness fees and expenses as part of the costs.~~

1 ~~(g) Any restitution paid by the defendant to the victim shall be~~
2 ~~credited against any judgment, award, or settlement obtained~~
3 ~~pursuant to this section. Any judgment, award, or settlement~~
4 ~~obtained pursuant to an action under this section shall be subject~~
5 ~~to the provisions of Section 13963 of the Government Code.~~

6 ~~(h) Any civil action filed under this section shall, at the request~~
7 ~~of the prosecuting or investigating agency, be stayed until any~~
8 ~~criminal action arising out of the same occurrence in which the~~
9 ~~claimant is the victim is no longer pending, or until the prosecuting~~
10 ~~or investigating agency requests that the stay be lifted, whichever~~
11 ~~occurs first. As used in this section, a "criminal action" includes~~
12 ~~investigation and prosecution, and is pending until a final~~
13 ~~adjudication in the trial court, or dismissal.~~

14 SEC. 2. Section 13835.11 is added to the Penal Code, to read:

15 13835.11. The agency designated by the Director of Finance
16 pursuant to Section 13820 to certify the training program for human
17 trafficking caseworkers, as defined in subdivision (b) of Section
18 1038.2 of the Evidence Code, shall be the same agency designated
19 by the Director of Finance to certify the training program for sexual
20 assault counselors, as defined in Section 1035.2 of the Evidence
21 Code. That agency shall complete the certification of the training
22 program for human trafficking caseworkers on or before June 30,
23 2010.